

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS MAKING FINDINGS FOR UNEXPENDED DEVELOPMENT FEES IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 66001, AND REVIEWING AND ACCEPTING ANNUAL DEVELOPMENT FEE DISCLOSURE INFORMATION**

**WHEREAS**, the Mitigation Fee Act, Government Code Section 66000 *et seq.*, authorizes the City of Milpitas (“City”) to impose, collect, and expend mitigation fees to offset the impacts of development within the City; and

**WHEREAS**, among the procedural requirements mandated by the Mitigation Fee Act is a requirement that beginning with the fifth fiscal year following deposit of development fees into a designated account, and each fifth fiscal year thereafter, the City make specified findings regarding any portion of the fees that remain unexpended; and

**WHEREAS**, a portion of the fees currently deposited in the City’s Traffic Impact Fee Fund were collected over five (5) years ago, and therefore the City wishes to make the findings required by Government Code Section 66001(d); and

**WHEREAS**, the City also wishes to review and approve reports required by the Mitigation Fee Act under the annual information disclosure requirements of Government Code Section 66006(b), including but not limited to the amount of the fee, the beginning and ending balance of the fee account or fund, and the interest earned thereon.

**NOW, THEREFORE**, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council finds that the Traffic Impact Fee Fund currently contains Three Thousand Eighty Dollars (\$3,080) in unexpended traffic fees that were collected over five (5) years ago from a developer and/or property owner located 995 Montague Expressway, Suite, 213, Milpitas, CA 95035 (“Unexpended Fee”).
3. In accordance with Government Code section 66001(d)(1), the City Council finds as follows:
  - (A) The Unexpended Fee will be used to provide for the Montague Expressway Widening project as identified in the City’s Capital Improvement Plan.
  - (B) There exists a reasonable relationship between the Unexpended Fee described above and the purpose for which it was charged because the widening of Montague Expressway from six to eight lanes will mitigate the increased traffic caused by the development and provide additional access.
  - (C) The current estimated total cost of the Montague Expressway Widening Project is approximately Forty-Five Million Dollars (\$45,000,000), of which the City’s share is approximately Ten Million Dollars (\$10,000,000). The City’s funding source will



include the Unexpended Fee of Three Thousand Eighty Dollars (\$3,080) and future traffic mitigation fees to be collected for this project within the nexus area along Montague Expressway.

(D) The Unexpended Fee has been deposited in the Traffic Impact Fee Fund, which is the appropriate fund to finance the Montague Expressway Widening Project.

4. In accordance with Government Code Section 66006(b), the City Council has reviewed and accepted the annual disclosure information made available to the public regarding City mitigation fees which was presented to the City Council in the staff report attached to this Resolution as Exhibits 1-3, and also placed on file with the City Clerk.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney



City of Milpitas

Annual Report of Development Fees and Expenditures for the  
Fiscal Year ended June 30, 2014

Exhibit 1 - Traffic Impact Fee

In order to implement the goals and objectives of the city of Milpitas' General Plan and to mitigate the impacts caused by new development in the City of Milpitas, certain public traffic facilities must be or had to be constructed to mitigate the impacts of new developments in the City. The City Council has determined that development impact fees are needed in order to finance these public improvements and to pay for the development's fair share of the construction costs of these improvements. In establishing the development impact fee described below, the City Council finds the fee to be consistent with its General Plan and, pursuant to Government Code Section 65913.2 (Municipal Code, VIII-4-1.01). The amount of the fee as of June 30, 2014, was as follows:

Area Covered	Type of Dwelling	Amount
Mid-Town		\$128 per PM peak trip
S. Main Street		\$317 per average daily trip
Transit Area Specific Plan (TASP)	Residential	\$32,781 per unit
	Retail	\$22.80 per square foot
	Office	\$36.60 per square foot
Citywide except TASP to widen Montague Expressway		\$1,024 per PM peak trip
Citywide except TASP to widen Calaveras Boulevard	Residential 5 or more units	\$266 per dwelling unit
	Retail Development of 1,000 or more square feet	\$803 per thousand square feet
	Office Development of 1,000 or more square feet	\$685 per thousand square feet
	Other Uses	A focused nexus study will be required



Non-Transit Area Traffic Impact Fee Fund  
Statement of Revenues, Expenditures, and Changes in Fund Balances for  
Fiscal Year 2013-2014

Revenues:

Traffic Fees	\$ 262,096
Interest	<u>17,723</u>
Total Revenues	<u>279,819</u>

Expenditures:

Total Expenditures	<u>0</u>
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Excess (deficiency) of revenues over (under) expenditures	279,819
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Fund Balance, beginning of year as restated	<u>1,531,342*</u>
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Fund Balance, end of year	<u>\$1,811,161</u>
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Note: Beginning fund balance has been restated and decreased in the amount of \$2,296,059 to reflect sewer and water developer fees incorrectly recorded in Traffic Impact Fee Fund in prior years.



Transit Area Specific Plan (TASP) Traffic Impact Fee Fund  
Statement of Revenues, Expenditures, and Changes in Fund Balances for  
For the Period from Inception (2008) through June 30, 2014

Revenues:

TASP Impact Fees	\$ 14,214,956
Interest	<u>156,593</u>
Total Revenues	<u>14,371,549</u>

Expenditures:

Item Number:

1. Purchase of Sewer Treatment Plant Capacity	4,749,161
2. Main Sewer Pump Station Project	4,356,000
3. Light Rail Median Landscaping Project	2,550,000
4. Payment for McCandless Properties	4,489,324
5. S. Milpitas Blvd. Extension – VTA	3,600,000
6. Planning and Other Preparation Costs	1,432,773
7. Interest on Interfund Loans	<u>2,267,119</u>

Total Expenditures	<u>23,444,377</u>
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Excess (deficiency) of revenues over (under) expenditures	(9,072,828)
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Fund Balance, beginning of year	<u>0</u>
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Fund Balance, end of year	<u>(\$9,072,828)</u>
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Item Number	Project Description	% of the project funded with development fees
1	Purchased of 0.75 millions gallons per day wastewater treatment capacity at the San Jose/Santa Clara Regional Wastewater Facility from the Cupertino Sanitary District and other associated costs.	100%
2	This project provides design and construction of drainage, pavement, lighting security and other improvements at the Main Sewer Pump Station (SPS). This project also involves the removal of the existing abandoned facilities, tanks, miscellaneous piping and control panels that were once part of the sewage treatment facility. In addition, this project acquires a 70' wide strip of right-of-way between McCarthy Blvd and the Main Sewer Pump Station, through a no cost land exchange with adjacent property owner.	100%
3	This project involves the design and construction of median landscape improvements on Great Mall Parkway from I-880 to the southern City limits at Capitol Expressway. There are eight separate median islands under the LRT viaduct structure which will be landscaped. The scope also includes construction of a recycled water main line for this project and future Transit Area Specific Plan development project.	42%
4	Park in-lieu fees received and paid to date to Mission West Properties for the purchase of 10.89 acres of land for \$21.78 million per Purchase and Sale Agreement dated February 15, 2011, including \$707,741 payment for land improvements and demolition of existing structures.	100%
5	In accordance with the 2010 Master Agreement between the City of Milpitas and the Santa Clara Valley Transportation Authority (VTA), VTA will acquire the right-of-way and will design and construct the South Milpitas Blvd. extension from Montague Expressway to Capitol Avenue. VTA and the City will share the costs for this effort in accordance with the Master Agreement. The City will pay its share of costs to VTA from the Transit Area Developer Impact Fees as they become available, up to a maximum amount of \$17 million.	100%
6	Planning and other preparation costs associated with the Transit Area Specific Plan.	100%
7	Interest on interfund loans advanced from Sewer and former RDA funds.	100%



Exhibit 2 – Storm Drain Fee

The purpose of the storm drain fee is to fund facilities necessary to provide storm drain services, and revenues derived from the fee imposed by the City shall be used solely for that purpose. Prior to connection or discharge to any storm drain facility from a new development project, developers shall pay City a fee for connection/discharge to the City's storm drain system (Municipal Code XI-16). The developers may also be assessed with mitigation fee due to the impact to the storm drain system. The amount of the fee as of June 30, 2014 was as follows:

Type of Dwelling	Parcel Size	Per Parcel Fee
Connection Fees		
Single-family medium density	Equal or smaller than 8,710 square feet	\$1,100
Single-family low density	Between 8,711 and 43,560 square feet	\$1,916
Single-family	Between 1 acre and 4 acres	\$3,594
Single-family	Between 4 acre and 9 acres	\$4,792
Single-family	Greater than 9 acres	\$6,469
Multiple-family		\$16,771 per acre
Commercial, industrial, institutional, or mixed use sites		\$21,562 per acre
Schools with athletic fields		\$7,187 per acre
Parks		\$4,792 per park
Offsite Storm Mitigation Fee		Various depends on the agreed-upon impact assessment



Storm Drain Development Fund  
Statement of Revenues, Expenditures, and Changes in Fund Balances for  
Fiscal Year 2013-2014

Revenues:

Storm Drain Fees	\$ 647,295
Interest	<u>12,279</u>
Total Revenues	<u>659,574</u>

Expenditures:

Total Expenditures	<u>0</u>
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Excess (deficiency) of revenues over (under) expenditures	659,574
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Fund Balance, beginning of year	<u>513,677</u>
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Fund Balance, end of year	<u>\$1,173,251</u>
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### Exhibit 3 – Park Development Fee

The purpose of the park development fee is to fund design and construction of park and park improvements required to mitigate the impact of new development. The amount of the fee as of June 30, 2014 was as follows:

<b>Area Covered</b>	<b>Amount*</b>
Mid-Town/TASP	\$59/sq ft
Citywide except TASP and Mid-Town	\$51/sq ft

\*Amount based on density and unit type.



Park Development Fee Fund  
Statement of Revenues, Expenditures, and Changes in Fund Balances for  
For the Period from Inception (2006) through June 30, 2014

Revenues:

Park Development Fees	\$ 4,518,215
Interest	<u>190,421</u>
Total Revenues	<u>4,708,636</u>

Expenditures:

CIP 5083 – Park Master Plan	50,000
Purchased of Land for Use as Open Space	213,585
CIP 5092 – Main Street Park	<u>350,000</u>
Total Expenditures	<u>613,585</u>

Excess (deficiency) of revenues over (under) expenditures	4,095,051
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Fund Balance, beginning of year	<u>0</u>
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Fund Balance, end of year	<u>\$ 4,095,051</u>
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CIP Number	Project Description	% of the project funded with development fees
5083	This project provides an in-depth study of the City's existing parks and future Parks needs. The study will result in the development of a Park Master Plan. The Park Master Plan will also become the guide for placing conditions on proposed development projects for new park space within the City. In addition, it will also identify and prioritize the level of improvements needed for each park, including cost estimates and recommended timelines. This information will be utilized in programming Park Capital Improvement Projects.	100%
N/A	Purchase of a remnant parcel of 0.48 acres from the County of Santa Clara located at the corner of Great Mall Parkway and South Abel Street to incorporate it into the adjacent Centria housing development project as part of the open space to be maintained as a public park.	44%
5092	This project provides for the design and construction of a new park on the City owned parcel just north of the Milpitas Library. Improvements will include a large gathering area to accommodate Park's activities such as "Music in the Park", shade structures, landscaping, drainage, hardscape and walkways. This project will also include street modifications to the intersection of Railroad Ave. and Main St., removing the pork-chop island and reconfiguring the south and east curbs of Main St. and Railroad Ave. Pedestrian improvements to the library parking garage are also included.	100%